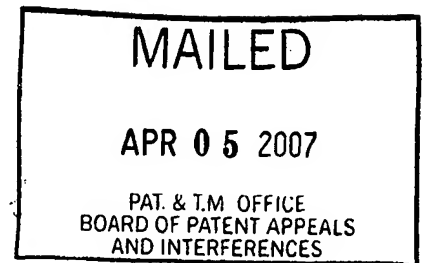


UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCE

Ex parte ELIYAHOU HARARI, ROBERT D. NORMAN
and SANJAY MEHROTRA

Application 10/000,155



ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received at the Board of Patent Appeals and Interferences (BPAI) on January 8, 2007. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below.

Information Disclosure Statements (IDSs) were filed October 19, 2005, November 10, 2005, November 21, 2005, and June 30, 2006. It is not clear from the record whether the examiner considered the IDSs or whether the examiner

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notified appellants of why their submission did not meet the criteria set forth in 37 CFR §§ 1.97 and 1.98.

A review of the file indicates that on March 20, 2006, appellants filed an Appeal Brief under the rules set forth in 37 CFR § 41.37(c). However, the Appeal Brief filed on March 20, 2006, does not fully comply with the new rules under 37 CFR § 41.37(c).

37 CFR § 41.37(c) states in part:

(c)(1) The brief shall contain the following items under appropriate headings and in the order indicated in paragraphs (c)(1)(I) through (c)(1)(x) of this section, except that a brief filed by an appellant who is not represented by a registered practitioner need only substantially comply with paragraphs (c)(1)(I) through (c)(1)(iv) and (c)(1)(vii) through (c)(1)(x) of this section:

(v) ***Summary of claimed subject matter.*** A concise explanation of the subject matter defined in each of the independent claims involved in the appeal, which shall refer to the specification by page and line number, and to the drawing, if any, by reference characters. For each independent claim involved in the appeal and for each dependent claim argued separately under the provisions of paragraph (c)(1)(vii) of this section, every means plus function and step plus function as permitted by 35 U.S.C. 112, sixth paragraph, must be identified and the structure, material, or acts described in the specification as corresponding to each claimed function must be set forth with reference to the specification by page and line number, and to the drawing, if any, by reference characters.

(vi) ***Grounds of rejection to be reviewed on appeal.*** A concise statement of each ground of rejection presented for review.

(ix) ***Evidence appendix.*** An appendix containing copies of any evidence submitted pursuant to §§ 1.130, 1.131, 1.132 of this title or of any other evidence entered by the examiner and relied upon by appellant in the appeal, along with a statement setting forth where in the record that evidence was entered in the record by the examiner. Reference to unentered evidence is not permitted in the brief. See § 41.33 for treatment of evidence submitted after appeal. This appendix may also include copies of the evidence relied upon by the examiner as to grounds of rejection to be reviewed on appeal.

(x) ***Related proceedings appendix.*** An appendix containing copies of decisions rendered by a court or the Board in any proceeding identified pursuant to paragraph (c)(1)(ii) of this section.

An in-depth review of the Appeal Brief indicates that the following sections are missing from the Appeal Brief filed March 20, 2006:

- 1) "Summary of Claimed Subject Matter," as set forth in 37 CFR § 41.37(c)(1)(v).
- 2) "Grounds of Rejection to be Reviewed on Appeal," as set forth in 37 CFR § 41.37(c)(1)(vi).
- 3) "Evidence Appendix," as set forth in 37 CFR § 41.37(c)(1)(ix).
- 4) "Related Proceeding Appendix," as set forth in 37 CFR § 41.37(c)(1)(x).

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It is required that a supplemental Appeal Brief be submitted that is in compliance with 37 CFR § 41.37(c). For more information on the Board's new rules, please see the web page entitled "More Information on the Rules of Practice Before the BPAI," Final Rule at:

<http://www.uspto.gov/web/offices/dcom/bpai/fr2004/moreinfo.html>.

Proper correction of the Brief is required.

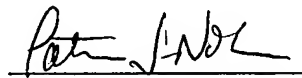
Accordingly, it is ORDERED that the application is return to the Examiner:

- 1) to consider the Information Disclosure Statements filed October 19, 2005, November 10, 2005, November 21, 2005 and June 30, 2006;
- 2) provide appropriate written notification by the examiner to appellants of such consideration; and
- 3) hold the Appeal Brief filed on March 20, 2006, defective;
- 4) notify appellants to file a supplemental Appeal Brief in compliance with 37 CFR § 41.37;

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- 5) if necessary, vacate the Examiner's Answer mailed July 5, 2006, and issue a revised Examiner's Answer in response to the supplemental Appeal Brief; and
- 6) for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES



PATRICK J. NOLAN
Deputy Chief Appeals Administrator
(571)272-9797

PJN/pgc

cc: Parsons Hsue & De Runtz, LLP
Sandisk Corporation
595 Market Street
Suite 1900
San Francisco, CA 94105